

## **SECTION XXI - MINING REGULATIONS**

This chapter of the Yellow Medicine County Land Use Ordinance shall be known as the Yellow Medicine County Mining Regulations or the “Mining Regulations.” These mining regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 103A-I and the planning and zoning enabling legislation in Minnesota Statutes Chapter 394.

### **Subdivision 1. Intent and Purpose**

1. Short Title. This Ordinance shall be known, cited, and referred to as the Yellow Medicine County Mining Ordinance except as referred to herein where it shall be known as “this Ordinance.”
2. Purpose. This Ordinance is adopted for the purposes of:
  - A. Providing for the economic availability and removal of sand, gravel, rock, soil, and other materials vital to the continued growth of Yellow Medicine County.
  - B. Establishing regulations, safeguards, and controls in the unincorporated areas of the County regarding noise, dust, traffic, drainage, groundwater quality, and other factors which will minimize the environmental and aesthetic impacts on mined or adjacent property.
  - C. Reducing the potential for pollution caused by wind, soil erosion, and sedimentation.
  - D. Establishing locations, orderly approval process, and operating conditions under which mining operations will be allowed in the unincorporated areas of the County and to establish conditions which ensure the restoration of mined areas consistent with the existing and planned land use patterns.
  - E. Ensuring compliance with the regulations established in this Ordinance on those mining operations presently operating in Yellow Medicine County.
  - F. Bringing operations without a permit into compliance with the performance standards of this Ordinance.

### **Subdivision 2. Scope and Applicability**

1. Adoption of the Yellow Medicine County Mining Ordinance. There is hereby adopted, for purposes of regulating the removal and processing of sand, gravel, rock, soil, or other deposits, the Yellow Medicine County Mining Ordinance. This Ordinance applies to all lands within the unincorporated area of Yellow Medicine County. It is not intended by this Ordinance to repeal, amend, or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by or in conflict with

this Ordinance or with private restrictions placed upon property by deed, covenant, or other private agreement or with restrictive covenants governing the land. Where this Ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this Ordinance shall control. In the event of conflicting provisions in the text of this Ordinance, or any other County Ordinance, the most restrictive shall apply.

### **Subdivision 3. General Provisions**

1. Mining operations operating with a valid Conditional Use Permit issued by Yellow Medicine County prior to the adoption of this Ordinance which remain in compliance with the terms and conditions of the Conditional Use Permit shall be permitted to continue but shall not be permitted to expand, either in size or use, beyond the limits set forth in the approved and recorded Conditional Use Permit without first obtaining a new Conditional Use Permit.
2. No person, firm, or corporation shall hereafter engage in the mining and processing of sand, gravel, granite, or other minerals on any land within Yellow Medicine County without first obtaining a Conditional Use Permit. Borrow sites and temporary grading projects as defined in this Ordinance shall not require a Conditional Use Permit.
3. All legal, nonconforming mining operations operating within Yellow Medicine County without a valid Conditional Use Permit issued by Yellow Medicine County as of the effective date of this Ordinance may continue but may not expand beyond the legally described parcel recorded in the office of the County Recorder. Any mining operation operating in Yellow Medicine County and legally commenced prior to the adoption of this Ordinance shall submit a reclamation plan to the zoning administrator for review and approval upon demand.
4. All mining operations operating within Yellow Medicine County without a valid Conditional Use Permit issued by Yellow Medicine County as of the effective date of this Ordinance shall at a minimum comply with performance standards set forth in Subdivisions 6, 7, and 8 of this Ordinance.
5. The owner/operator of a mining operation shall be responsible for extraordinary maintenance and restoration of all County/township roads leading to the mining operation that may be damaged due to activities involving the mining operation unless the owner/operator can prove that the mining operation was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of the Road Authority and to the Road Authority's satisfaction.
6. In order for Yellow Medicine County to grant a Conditional Use Permit for a new mining operation or the expansion or change in use of an existing operation, whether under permit or not, all of the following criteria must be met:

- A. The mining operation must be located in an agricultural or commercial/industrial zoning district.
- B. The property is at least 20 acres in size.
- C. All other standards for approval of a Conditional Use Permit as contained in the Yellow Medicine County Land Use Ordinance are met.
- D. The operation is consistent with the Yellow Medicine County Comprehensive Plan and is in compliance with all provisions of this Ordinance.

#### **Subdivision 4. Definitions**

Following is a list of definitions most pertinent to this chapter of the Yellow Medicine County Land Use Ordinance. For a complete list of definitions, refer to Section 1 – General Provisions.

Abandon - To cease a specific use of a property for a period of 12 consecutive months or more.

Abut - To border upon a parcel of land; to share all or part of a common property line with another parcel of land.

Administrator - The County Zoning Administrator.

Applicant - A person, corporation, or other legal entity recognized by law who applies for a variance, zoning permit, conditional use permit, or other land use permit.

Attorney - The County Attorney.

Board of Adjustment and Appeals - An officially constituted body appointed by the County Board whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of the zoning ordinance.

Board of County Commissioners – The Yellow Medicine County Board of County Commissioners.

Borrow Site - An area located within the construction easement from which material is extracted for use in conjunction with a federal, state, County, or township road construction project.

Buffer - A strip of land intended to create physical separation between potentially incompatible uses of land.

Commissioner - The Commissioner of the Department of Natural Resources.

Conditional Use - A use that may be appropriate in a given zoning district but which requires special planning considerations in each instance and which will only be allowed in a specific location under conditions specified by this Ordinance and by the County Commissioners.

Contour Interval - The vertical height between contour lines.

Contour Map - A map on which irregularities of land surface are shown by lines connecting points of equal elevations.

Corrective Action - Any action required by the department to ensure compliance or conformance with this Ordinance and state regulations.

County - Yellow Medicine County, Minnesota.

Cultural Resource - The historic and archeological characteristics of the land, including buildings and landscapes, which provide information regarding the history of Yellow Medicine County and its people.

Decibel - The unit of sounds measured on the “A” weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the “Standards on Sound Level Meters of the USA Standards Institute.”

District - The word “district” shall mean a section of the County for which the regulations governing the height, area, use of buildings, and premises are the same.

DNR - The Minnesota Department of Natural Resources.

Drainage Course - A watercourse or indenture for the drainage of surface water.

Drainageway - A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

Dredging - The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Driveway - A private road or path that is located on the lot that it services and which affords vehicle access to a public road.

Engineer - The County Engineer.

Environmental Impact Worksheet or Statement - That document that might be required under Minnesota Statutes Chapters 116C and D.

Extraction Area - Any non-agricultural artificial excavation of earth exceeding 50 square feet of surface area of two feet in depth, other than activity involved in preparing land for earth sheltered or conventional construction of residential, commercial, and industrial buildings, excavated or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone, or other natural matter or made by turning, breaking, or undermining the surface of the earth, except that public improvement projects shall not be considered extraction areas.

Extractive Use - The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes Sections 93.44 to 93.51.

Fence - Any partition, structure, wall, gate, or planting specifically placed to form a divider marker, barrier, or enclosure and located along the boundary or within the required yard.

Fill - Sand, gravel, earth, or other materials deposited on, moved onto, or placed on a parcel of land.

Filling - The placement of fill on a parcel of land.

Flood Plain - The area subject to inundation by a 100-year flood (regional flood) as designated and mapped by the Federal Emergency Management Agency.

Floodway - The bed of a wetland or lake, the channel of a watercourse, and those portions of the adjoining flood plain that are reasonably required to carry or store the regional flood discharge.

Frequency - The oscillations per second in a sound wave.

Governing Body - The Yellow Medicine County Board of County Commissioners.

Grading, Temporary - Grading, excavating, or filling that meets the following criteria shall be considered temporary:

1. Grading, excavating, or filling of at least 500 and not more than 10,000 cubic yards of material.
2. Grading, excavating, or filling that is temporary in nature, with a one-year time limit.
3. Grading, excavating, or filling that is not located in a Floodplain, Shoreland, or Scenic River District. Grading, excavating, or filling in these districts shall be regulated under the appropriate chapter of the Ordinance specific to each of these districts.

Groundwater - Water contained below the surface of the earth in a saturated zone.

Hazardous Material - A chemical or substance, or a mixture of chemicals or substances, which:

1. Is regulated by the federal Occupations Safety and Health Administration under Code of Federal Regulations, Title 29, Part 1910, subp. Z.
2. Is either toxic or high toxic, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, either flammable or extremely flammable, dangerously reactive, pyrophoric, pressure-generating, a compressed gas, a carcinogen, a teratogen, a mutagen, a reproductive toxic agent, or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance.

Land Reclamation - Activity that is taken during and after a mining operation to return the area to a natural state as much as possible or take actions that would substantially reduce adverse environmental effects from occurring.

Land Use Permit - A document issued by the office of the zoning administrator to permit construction or the establishment of, but not limited to, all buildings, building additions, structures, towers, basements, farm and wildlife ponds, earth excavations, shoreland repairs and vegetation alterations, mobile homes, trailer houses, all farm buildings, grain bins, corn cribs, silos, feed rooms, milk rooms, etc.

Mining - The excavation, removal, storage, or processing of sand, gravel, rock, soil, clay, or other deposits. For the purposes of this Ordinance, mining shall not include the excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes:

1. Excavation for the foundation, cellar, or basement of some pending structure for which a permit has been issued and which is to be erected immediately following the excavation, removal, or storage.
2. On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the local unit of government, agriculture or conservation purposes, sod removal, or other public utilities.
3. Landscaping purposes on a lot used or to be used as a building site.
4. Grading/excavation of less than one acre of land in conjunction with improvement of a site for lot development providing activities will be completed in one year.
5. The removal of excess materials in accordance with approved plats or highway construction.

MPCA - The Minnesota Pollution Control Agency.

National Pollutant Discharge Elimination System (NPDES) - A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.

Natural Drainageway - A depression in the earth's surface such as ravines, draws, and hollows that has definable beds and banks capable of conducting surface water runoff from adjacent lands.

Natural Resources - The physical values of the land supplied by nature including, but not limited to, animal life, plant life, soil, rock, minerals, and water.

Noise, Ambient - The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominate source.

Noxious Matter - Material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.

Official Control - Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the Comprehensive Plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps and have been adopted by Yellow Medicine County.

Operator, Mining - Any owner or lessee of mineral rights engaged in or preparing to engage in mining operations.

Ordinance - The Yellow Medicine County Land Use Ordinance.

Ordinary High Water Level or Ordinary High Water Mark – A level delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water level is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water level is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters and sloughs.

Parking Space - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Percentage of Grade - “Percentage of grade” on street centerline means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

Performance Standards - The minimum development standards as adopted by the governing body and on file in the office of the zoning administrator.

Permittee - Any person who obtains a permit from the County pursuant to this Ordinance. A person is a permittee only for the term of the permit.

Planning Commission - The Yellow Medicine County Planning Commission.

Property Line - The legal boundaries of a parcel of property that may also coincide with a right-of-way line of a road, cart way, and the like.

Public Waters – A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this Ordinance, any body of water which has the potential to support any type of recreational pursuit or water supply purpose.

Refuse – Putrescible and nonputrescible solid wastes including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes that do not contain free moisture.

Regulatory Flood Protection Elevation - The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Resource Inventory - A survey of the land’s features including its natural resources, cultural resources, scenic views and view sheds, and physical characteristics.

Right-of-Way - The publicly owned land along a road or highway corridor a portion of which is covered by the road or highway pavement.

Road – A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, service road, place or however otherwise designated.

Seasonal High Water Table – The highest elevation in the soil where periodically depleted oxygen levels occur because of soil voids being filled with water. Saturated soil is evidenced by presence of soil mottling or other information.

Sensitive Resource Management - The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils



over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Sign - A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

Slope - The amount a land surface rises or falls from a horizontal plane. Slope can be expressed as a fraction or percentage, arrived at by dividing the distance of the vertical rise or fall from the horizontal plane by the horizontal distance.

Structure – Anything constructed or erected on the ground or attached to the ground or attached to a public utility. Structures may include buildings, transmission towers, signs, electrical substations, pumping stations, poles, wires, overhead or underground electrical, gas, steam or water transmission or distribution systems and structures.

Variance – A modification or variation of the provision of this Ordinance where it is determined that by reason of exceptional circumstances, the strict enforcement of any provision of the local ordinance would cause unnecessary hardship or that strict conformity with the provisions of the local ordinance would be unreasonable, impractical or not feasible under the circumstances.

Waters of the State - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portions thereof.

Zoning Administrator - The duly appointed person charged with enforcement of this Ordinance.

Zoning District - An area or areas within the County for which the regulations and requirements of this Ordinance are applied.

Zoning Map - The map or maps incorporated into this chapter as a part thereof designating the zoning districts.

Zoning Ordinance - A zoning ordinance or resolution controlling the use of land as adopted by Yellow Medicine County.

### **Subdivision 5. Application**

1. The application for a Conditional Use Permit for a mining operation must be filed with the Yellow Medicine County zoning administrator. The application must be

made in the name(s) of the operator of the mine and owner of the land to be mined.

The application shall contain the following:

- A. The name and address of the operator and owner of land.
- B. An accurate legal description of the property where the mining shall occur.
- C. Names of the adjacent landowners including all those within a one-half mile radius of the property.
- D. A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data including contours at 10-foot vertical intervals. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown.
- E. A narrative outlining the type of material to be excavated, mode of operation, estimate of amount of material to be removed, plans for blasting, and other pertinent information to explain the request in detail.
- F. A fee as established by resolution of the County Board.
- G. A general location map showing the proposed mining site in relation to any city within two miles.
- H. A map showing access routes between the property and the nearest arterial road.
- I. Location of roads or streets: show name, right-of-way width, and traveled portion width, railroads, and trails.
- J. Easements: show widths and identify utility or other purposes.
- K. Natural land features: show locations of watercourses and drainageways, floods of record, wetlands, sinks, basins, and wooded areas.
- L. Man-made features: show buildings and other structures, dams, dikes, and impoundments of water.
- M. Adjacent land features: all of the standards above shall apply to delineation of the area within 300 feet of the perimeter of the mined area. In addition, show all platted subdivision lots, metes and bounds parcels, and all homes within one-quarter mile of the property boundaries.
- N. Groundwater: A plan for groundwater quality protection shall be

submitted with the application. The plan shall include a minimum of three borings showing depth to groundwater. If groundwater is not encountered at a depth of 15 feet below the bottom of the proposed pit floor, the applicant need not extend borings any farther.

- O. Cross-sections: A minimum of three cross-sections showing the extent of overburden, extent of sand and gravel deposits, the water table, and any evidence of the water table in the past. The Planning Commission reserves the right to require additional borings if necessary.
- P. Processing areas shall be identified and boundaries shown to scale.
- Q. Access road to processing and mining areas shown to scale.
- R. An estimate of the life expectancy of the proposed operation including sequences of operation showing approximate areas to scale and serially numbered with a description of each.
- S. Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner, overburden storage areas shall be identified and noted.
- T. Fences and gates shall be shown on the site map, and their type or construction shall be described.
- U. Proposed location of principal service or processing buildings or enclosures shall be shown, as well as location of settling basins and process water ponds.
- V. Site drainage features shall also be shown and flow directions indicated.
- W. Lighting: set forth the planned lighting of the area and any other equipment or structures that will be installed or built.
- X. Reclamation plan in conformance with Section 7.
- Y. The operator must indicate if blasting is proposed as part of the mining operation and frequency of blasting.
- Z. The applicant shall submit grading plans and phased rehabilitation plans to the Yellow Medicine Soil and Water Conservation Service and the appropriate Watershed District or Water Management Organization.
- AA. Any other information or reports the zoning administrator or Planning Commission deems necessary for purposes of evaluating environmental or aesthetic impacts.

2. Environmental Assessment Worksheets, Environmental Impact Statements, and Other Permits.
  - A. A mandatory Environmental Assessment Worksheet shall be required for development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals that will excavate 40 acres or more of land to a mean depth of 10 feet or more during its existence. Yellow Medicine County will be the responsible governmental unit for the preparation of the Environmental Assessment Worksheet. Costs associated with the preparation of an Environmental Assessment Worksheet shall be borne by the applicant.
  - B. A mandatory Environmental Impact Statement shall be required for development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals that will excavate 160 acres or more of land to a mean depth of 10 feet or more during its existence. Yellow Medicine County will be the responsible governmental unit for the preparation of the Environmental Impact Statement. Costs associated with the preparation of an Environmental Impact Statement shall be borne by the applicant.
  - C. Protection of Water Tables. The maximum depth of excavation shall be established so that groundwater quality is protected. This depth of excavation shall be established by the County Board and will be based, in part, upon soil characteristics, depth to water table, nature of mining proposed, and local use of the aquifer. Mining shall not occur in confined aquifers. Excavation into unconfined aquifers must be closely monitored and conducted according to the conditions of the permit.

No extraction operations shall be conducted in such a manner as to permanently lower the water table of surrounding inhabited properties or any other water body.
  - D. All provisions of the Minnesota Environmental Quality Board Environmental Review Program must be complied with.
  - E. Permits from the Minnesota Pollution Control Agency may be required for a mining operation in relation to air and water quality. An air quality permit may be necessary for smokestack discharges from processing plants or fugitive dust from operating areas. If the mining operation discharges water (from pit de-watering and/or gravel washing), a State Disposal System permit or a National Pollutant Discharge Elimination System permit may be necessary from the Minnesota Pollution Control Agency. As a condition of any permit issued pursuant to this Ordinance, no mining will be allowed until evidence is shown that the operator has obtained these permits or none are necessary.

- F. Permits from the Minnesota Department of Natural Resources may be required in the event any type of work is proposed in public waters or if there is a need for de-watering the pit to gain access to sand, gravel, and rock. A permit may also be needed for well in connection with a washing facility. As a condition of any permit issued pursuant to this Ordinance, no mining will be allowed until evidence is shown the operator has obtained these permits or none are necessary.
- G. Any mining operation having access from a state or County highway must obtain an access permit from the respective agency. A turn lane and/or bypass lane may be required by the respective agency to reduce the risk of traffic safety hazards. The cost of construction of a turn or bypass lane shall be the sole expense of the operator.
- H. Abandoned wells must be sealed in accordance with state and County requirements.

#### **Subdivision 6. Operating Conditions**

- 1. Operating Conditions. The following operating conditions and standards must be met for all mining operations:
  - A. Setback. No mining, stockpiling, or land disturbance shall take place within:
    - i. 30 feet of adjoining property lines unless the written consent of the owner of the adjoining property is first secured and a copy submitted to the zoning administrator.
    - ii. 500 feet of any existing occupied structures not owned by the operator or owner.
    - iii. 30 feet to the boundary of any district where such operations are not permitted.
    - iv. 500 feet to the boundary of an adjoining property residentially zoned or contiguous property subdivided into residential lots.
    - v. 30 feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road, or highway. Such excavation shall require written approval of the zoning administrator and the Road Authority.
    - vi. 50 feet from the berm of any public or private ditch system.
    - vii. If two or more mining operations are contiguous to one another, the common boundary may be mined if the County Board approves the respective restoration plans.
    - viii. 100 feet from the high water mark of any public water.

- B. Hours of Operation. Those portions of the mining operation consisting of excavating, stockpiling, processing, or hauling shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless other hours or days of operation are specifically authorized by the County Board. Blasting shall only take place between the hours of 7:00 a.m. and 5:00 p.m., Monday through Saturday.
- C. Dust Control. The owner/operator must construct, maintain, and operate all equipment in such a manner as to minimize on-site and off-site dust conditions. All operations shall meet the standards of the Minnesota Pollution Control Agency. The driveway access to the sand and gravel operation must be set back at least 25 feet from neighboring property lines unless property owners agree to a lesser distance.

The owner/operator shall maintain all ways and roads within the site in a dust-free condition, providing such surfacing or other treatment as may be deemed necessary by the Planning Commission or the County Board, provided that the treatment produces no potential pollution hazards to the ground and surface waters of the area. All gravel pit access roads shall be provided and maintained with a dustless non-oiled surface. Access roads shall also be constructed and maintained in such a manner that the deposit of earth materials on public roads is minimized. The County Board may require a blacktopped road if deemed necessary.

- D. Noise. All equipment and other sources of noise must operate so as to be in accordance with federal, state, and County noise standards.
- E. Depth of Excavation. The maximum depth of excavation may be regulated based on groundwater protection and/or the ability to restore the property.
- F. Site Clearance. All stumps and other debris resulting from the excavation or related activities should be disposed of by approved methods.
- G. Appearance/Condition. The owner/operator must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of the landscaped area. Existing trees and topsoil along existing public right-of-way shall be preserved, maintained, and supplemented for the depth of the setback or as stipulated in the conditional use permit or excavation permit.
- H. Waste Disposal. Any waste generated from the mining operation, including sewage, hazardous waste, or waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, and County requirements.
- I. Water Quality Monitoring. Water quality monitoring when required shall conform to the following standards:

Water from monitoring wells and water collected or discharged from the mining area shall be analyzed until one year after reclamation is completed. Samples from monitoring wells shall be taken and testing results submitted prior to the permit renewal. The County Board may require more frequent monitoring. Sampling and testing shall be done by an independent testing laboratory or an agency chosen by the County Board. Monitoring wells shall be sealed one year after reclamation efforts are complete if the site is determined to be uncontaminated. Water samples shall be analyzed to determine the level of nitrates, pesticides, herbicides, and volatile organic compounds specified by the County Board.

- J. Added Provisions. The operator must comply with such other requirements that Yellow Medicine County, from time to time, may find necessary to adopt for protection of the health, safety, and welfare. All applicable State and Federal Rules shall be adhered to.
- K. Processing. Any mining operation in which processing is proposed must meet the following performance standards:
  - i. A conditional use permit is required for any new or existing mining operation that desires to add processing equipment on-site.
  - ii. The application must include the nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
  - iii. Operators who wish to have processing equipment shall meet the following criteria:
    - a. Crushing equipment must be placed in the bottom of the pit area if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
    - b. All federal, state, and local air, water, and noise quality standards must be met.
    - c. Setback requirements as set forth in this Ordinance must be met.
  - iv. A temporary processing plant in conjunction with a specific road project, located in close proximity to the subject road, will be allowed subject to the following conditions:
    - a. All federal, state, and local air, water, and noise quality standards must be met.
    - b. A conditional use permit must be obtained.
    - c. The processing equipment must be located so as to minimize the effect on surrounding property owners.
    - d. Site selection shall not have a negative effect of the public health, safety, and welfare.
    - e. No materials, outside of the designated right-of-way, may be excavated or removed from the site without a conditional use permit for mining.
    - f. A bond, in an amount determined by the County Board,

must be posted to assure restoration of the site.

- L. Recycling. The crushing/processing or storage of used aggregate, concrete, and asphalt will be permitted subject to the following conditions:

- i. A conditional use permit is obtained.
- ii. The processing equipment must be located so as to minimize the effect on surrounding property owners.
- iii. Site selection shall not have a negative effect on the public health, safety, and welfare.
- iv. All federal, state, and local air, water, and noise quality standards must be met.

- M. Trucking Operations. The operator shall ensure all loads leaving any pit regulated by this Ordinance are loaded so as to comply with state law.

Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage resulting from overloading or from truck tires shall be removed at regular intervals.

- N. Temporary Asphalt and Concrete Plants. A Conditional Use Permit shall be required for all temporary asphalt and concrete plants. Temporary asphalt and concrete plants may be allowed if the following conditions are met:

- i. All setbacks as set forth in this Ordinance must be met.
- ii. All federal, state, and local air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
- iii. The owner/operator must provide a plan to prevent surface and groundwater contamination.
- iv. Equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
- v. Site selection shall not have a negative effect on the public health, safety, and welfare.
- vi. No materials may be excavated or removed from the site without a conditional use permit for mining.
- vii. A bond, in an amount determined by the County Board, must be posted to assure restoration of the site.

- O. Fuel Storage. All on-site storage of fuel must meet federal, state, and local standards.

#### **Subdivision 7. Reclamation**

1. Reclamation. A reclamation plan shall contain supporting information:



- A. Intent of reclamation.
  - B. Methods and processes of reclamation.
  - C. Initial condition of mining site.
  - D. Limits of various operational areas.
  - E. Phasing and timing of operation and reclamation including areas to be stripped of overburden.
  - F. Final condition of site, including proposed contours and potential development plan.
  - G. Relation of final site condition to adjoining landforms and drainage features.
  - H. Relation of reclaimed site to planned or established uses of surrounding land.
2. Timing. Restoration should proceed in a continuous manner and must be subject to review and approval at each inspection and at the end of the permit period.
3. Excavations resulting in the accumulation of substantial water areas after rehabilitation must meet the following requirements:
- A. The water depth must not be less than three feet measured from the low water mark, unless a plan for creation of a wetland or marsh has been approved.
  - B. All banks shall be sloped to the water line at a slope that shall not be steeper than four feet horizontal to one foot vertical.
  - C. All banks shall be surfaced with soil of a quality of at least equal to the topsoil of land areas immediately surrounding and to a depth of at least four inches. Sodding or seeding and mulching are also required. Mulch must be properly anchored.
  - D. The topsoil as required by subsection C above shall be planted with trees, shrubs, legumes, or grasses.
  - E. Slopes on reclaimed areas shall not be steeper than four feet horizontal to one foot vertical. Exceptions may be made in cases where non-erodible conditions are present.
  - F. In man-made groundwater lakes, the bottom contour shall be gradually sloping from the shoreline to the deepest portion of the water body a

maximum slope of three feet horizontal to one foot vertical for at least 30 feet from the proposed shoreline toward the center of the water body.

- G. All groundwater lakes or wetlands classified by the Department of Natural Resources shall be subject to the County's Shoreland Management Ordinance.
4. Excavations not resulting in water areas after rehabilitation but which must be graded or backfilled shall meet the following requirements:
- A. Fill shall be inspected and certified as being clean (free of volatile organic compounds and heavy metals) before being used for reclamation. Organic soil shall be used only for topsoil.
  - B. Such grading or backfilling shall be made with non-noxious, nonflammable, noncombustible solids. Any fill shall consist of native material only.
  - C. The graded or backfilled area shall not collect or permit stagnant water to remain therein.
  - D. The peaks and depressions of the area shall be reduced to a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.
  - E. Such graded or backfilled area shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth at least four inches.
  - F. Such topsoil as required by Letter E above shall be planted with trees, shrubs, legumes, or grasses.
  - G. Slopes on reclaimed areas shall not be steeper than four feet horizontal on one foot vertical. Exceptions may be made in cases where non-erodible conditions are present.
  - H. All rehabilitation areas that are planned for building purposes shall have a final elevation at least 10 feet above the normal ordinary groundwater level. If public sewer is not available, plans for on-site septic systems must be considered. If the area is backfilled for purposes of future development, the soil must be compacted and subsequently tested by a registered soils engineer and approved.
5. Drainage. Reclamation shall proceed in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of

natural and storm drainage shall not adversely affect public roads or neighboring uses.

6. Cover and Planting. The reclamation area shall be planted with grass, trees, shrubs, or other vegetation to prevent erosion and provide for screening and natural beauty. Technical assistance and soils data should be obtained from appropriate state and federal officials, conservation districts, and the nearest soil conservation service office.
7. Topsoil. When topsoil is stripped or removed, an adequate amount must be retained and set aside on the site for re-spreading over the excavated area according to the reclamation plan. These overburden stockpiles must be used to minimize the effects of erosion of wind or water upon public roads, streams, or adjacent land uses and shall not be sold or removed from the property.
8. Final Restoration/Removal of Structures. Within a period of 12 months after the termination of a mining operation, or within 12 months after abandonment of such operation for a period of 12 months, all buildings and other structures not otherwise allowed under the Zoning Ordinance must be removed from the property and the property restored in conformance with the reclamation plan.

#### **Subdivision 8. Insurance, Financial Guarantees, Fees, and Inspections**

1. Bond. An operator must post a bond, cash deposit, or other security in such form and sum as the County Board may require to cover the cost of reclamation of the property. Bonds shall be for a minimum of one year and shall include a provision for notification to the County at least 30 calendar days prior to cancellation or non-renewal.
2. Fees. Permit fees will be charged based on resolution of the County Board. Fees may cover all administrative costs associated with the permit application, annual review, and costs of inspections.
3. Inspections. As a condition of approval of a mining permit, Yellow Medicine County staff has the right to go on the subject property after providing reasonable notice to the operator.

#### **Subdivision 9. Violations and Penalties**

1. Any firm, person, or corporation who violates any of the provisions of these regulations shall be guilty of a full misdemeanor and, upon conviction thereof, shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
2. In the event of a violation or threatened violation of any of the terms of this Ordinance, the County may take appropriate action to enforce this Ordinance

including application for injunctive relief, action to compel performance, or other appropriate action to court if necessary to prevent, restrain, correct, or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements, and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.

3. Whenever necessary to enforce any of the provisions of this Ordinance or whenever there is reasonable cause to believe that a violation of this Ordinance has occurred or is about to occur, an authorized agent of the County may enter any building or upon any premises at all reasonable times to inspect or to perform any duties imposed by this Ordinance. If the building or premises is occupied, the authorized inspector shall first present proper credentials prior to entry. If the building or premises is unoccupied, the authorized inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises prior to entry. If entry is refused, the County shall have recourse to every remedy provided by law to secure entry, including administrative and judicial warrants.

#### **Subdivision 10. Termination of Permit**

1. Any permit granted pursuant to this Ordinance may be revoked for a violation of any provisions of this Ordinance or any conditions of the permit.
2. Revocation shall not occur earlier than 10 County working days from the time written notice of revocation is served upon the permittee or, if a hearing is requested, until written notice of the County Board action has been served on the permittee. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. The written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusions that a violation or violations have occurred, and a statement that if the permittee desires to appeal, a request for a hearing must be filed within 10 working days, exclusive of the day of service. The hearing request shall be in writing, stating the grounds for appeal, and served personally or by registered or certified mail on the Yellow Medicine County Administrator by midnight of the tenth County working day following service. Following the receipt of a request for hearing, the County Board shall set a time and place for the hearing.

#### **Subdivision 11. Effectuation**

1. It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:
  - A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other

provisions of this Ordinance not specifically included in said judgment.

- B. If any court of competent jurisdiction shall adjudge invalid the application of any portion of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.